



OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE ARTESIA REDEVELOPMENT AGENCY AGENDA REPORT

MEETING DATE: 6/4/13

CONTROL NO:

ITEM NO: 5

SUBJECT: PIONEER DOWNTOWN REVITALIZATION PROJECT BOND
PROCEEDS FUNDING AGREEMENT

AND

RESOLUTION NO. ASA 13-23

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ARTESIA REDEVELOPMENT AGENCY APPROVING THE EXECUTION OF A PIONEER DOWNTOWN REVITALIZATION PROJECT BOND PROCEEDS FUNDING AGREEMENT BETWEEN THE SUCCESSOR AGENCY AND THE CITY OF ARTESIA AND TAKING CERTAIN RELATED ACTIONS

FROM: City Manager's Office

PRESENTATION BY: Justine Menzel, Deputy Executive Director

BACKGROUND

The Artesia Redevelopment Agency issued 2007 Tax Allocation Bonds for various improvements outlined in the Official Statement of bond documents. One of the principal projects is the City's Pioneer Downtown Revitalization Project in which construction began around March 2012. During the Recognized Obligation Payment Schedule 1 (ROPS I) process where estimated payments for the January through June 2012 period were presented for approval, the Department of Finance (DOF) rejected in May 2012. The result was a financial burden that the City of Artesia undertook to suspend the project while bringing the infrastructure progress to a safe stopping point and working diligently to convince DOF of the enforceable obligations associated with the project.

In order to move out of this suspended state, reimburse the City, and spend the bond money in accordance with their purpose, an additional Bond Proceeds Funding Agreement is presented for Successor Agency and subsequently, Oversight Board approval. Furthermore, the Department of Finance issued a Finding of Completion dated April 18, 2013. A draft of similar content for the agreement described above was presented to the DOF on May 2, 2013. The DOF is aware that the Successor Agency will forward a final approved document as soon as possible at conclusion of oversight board meeting.

Subsequently, the DOF gave final determination on May 17, 2013 to approve lines 7 and 17 of the Recognized Obligation Payment Schedule (ROPS) 13-14A (aka ROPS IV) for the period July 1, 2013 – December 31, 2013. This action completes the full approval of ROPS 13-14A listed activities that were submitted by March 1, 2013. Now the Agency is prepared to finish the project started in 2012 for the Pioneer Downtown Revitalization Project and reimburse the City for the advancement of funds on the same project for which expenses were previously denied. ROPS 13-14A propels the mechanism for which to commence activities and pay obligations of the project.

FISCAL IMPACT

Funding Agreement further affirms allocation of estimated expenses on ROPS 13-14A of non-housing funds from the 2007 Bond Proceeds for completion of Pioneer Downtown Revitalization Project:

1. Redevelopment project = \$1,651,752.
2. Legal = \$40,000
3. Employees of City/Agency = \$66,123
4. Reimburse City General Fund = \$893,000

RECOMMENDATION

The oversight board is requested to approve ASA 13-23 and the funding agreement listed as Exhibit A.

ATTACHMENTS

Resolution No. ASA 13-23

RESOLUTION NO. OB 13-23

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ARTESIA REDEVELOPMENT AGENCY APPROVING THE EXECUTION OF A PIONEER DOWNTOWN REVITALIZATION PROJECT BOND PROCEEDS FUNDING AGREEMENT BETWEEN THE SUCCESSOR AGENCY AND THE CITY OF ARTESIA AND TAKING CERTAIN RELATED ACTIONS

Recitals:

A. On December 20, 2007, the former Artesia Redevelopment Agency (the “Former Agency”) issued its Artesia Redevelopment Project Area, 2007 Tax Allocation Bonds (the “2007 Bonds”), in the principal amount of \$12,920,000, pursuant to an Indenture, dated as of December 1, 2007 (the “Indenture”), by and between the Former Agency and Wells Fargo Bank, National Association, as trustee.

B. One of the purposes for which the 2007 Bonds were issued was to finance improvements to the downtown district of the City of Artesia (the “City”). The principal project in the City’s downtown district is the construction and installation of street improvements to the City’s downtown arterial roadway, Pioneer Boulevard (the “Project”).

C. Pursuant to AB X1 26 (which became effective at the end of June 2011), as modified by the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* (53 Cal.4th 231(2011)), the Former Agency was dissolved as of February 1, 2012, and the Successor Agency to the Artesia Redevelopment Agency (the “Successor Agency”) was constituted.

D. AB 1484, which became effective at the end of June 2012, amended and supplemented the provisions of AB X1 26. Together, AB X1 26 and AB 1484 are referred to herein as the “Dissolution Act.”

E. Pursuant to Section 34175(b) of the California Health and Safety Code (“HSC”), all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former Agency, including the unspent proceeds of the 2007 Bonds (the “2007 Bond Proceeds”), transferred to the control of the Successor Agency by operation of law.

F. Pursuant to the Dissolution Act, the Successor Agency is not permitted to use the 2007 Bond Proceeds for the Project until certain conditions precedent have been satisfied, including the receipt by the Successor Agency of a finding of completion (the “Finding of Completion”) issued by the California State Department of Finance (the “DOF”) pursuant to HSC Section 34179.7.

G. By its letter, dated April 18, 2013, the DOF informed the Successor Agency that the DOF has issued a Finding of Completion to the Successor Agency.

H. Pursuant to HSC Sections 34191.1 and 34191.4(c), after the receipt of the Finding of Completion, the Successor Agency shall use the 2007 Bond Proceeds for the purposes for which the 2007 Bonds were sold, in a manner consistent with the original bond covenants.

I. The Successor Agency desires to proceed with the use of the 2007 Bond Proceeds for the purposes for which the 2007 Bonds were sold, including the completion of the Project.

J. Pursuant to 34177(l), the Successor Agency must prepare a Recognized Obligation Payment Schedule (“ROPS”) for each six-month fiscal period (“ROPS Period”). The ROPS must be submitted to the Oversight Board of the Successor Agency and the DOF for approval.

K. Pursuant to HSC Section 34191.4(c)(2), the expenditure of 2007 Bond Proceeds for an obligation must be listed on a ROPS.

L. The Successor Agency previously submitted an Oversight Board approved ROPS 13-14A (*i.e.*, the ROPS covering the period from July 1, 2013 through December 31, 2013 (the “ROPS 13-14A Period”) to the DOF.

M. By its letter dated May 17, 2013, the DOF approved the expenditure of a portion of the Bond Proceeds, in the amount of \$2,610,875, for the Project, covering Item No. 7 and Item No. 17 on the Successor Agency’s ROPS 13-14A.

N. Because of the limited staffing of the Successor Agency and the City’s traditional role and established procedures with respect to the awarding of public works contracts, the Successor Agency desires to enter into a Pioneer Downtown Revitalization Project Bond Proceeds Funding Agreement (the “Funding Agreement”) with the City, for the City to perform or cause to be performed all work required to complete the Project, with payment therefor to be made from 2007 Bond Proceeds.

O. Because the Project had already commenced before the disruption caused by the dissolution of the Former Agency and 2007 Bond Proceeds could not be used for payments already incurred for the Project during the period from June 2011 through June 2013, the City has advanced City funds, in the amount of \$893,000.00 for the Project during such period (the “Prior City Advance”).

P. The Funding Agreement provides for the transfer of a portion of the 2007 Bond Proceeds to the City as reimbursement for the Prior City Advance and for the City to perform, or cause to be performed, all work required to complete the Project.

Q. Pursuant to HSC Section 34180(h), the execution and delivery of the Funding Agreement by the Successor Agency must first be approved by the Oversight Board.

R. The Oversight Board has received a copy of Resolution No. ASA 13-21, adopted by the Board of Directors of the Successor Agency on May 13, 2013, requesting the Oversight

Board to approve the execution and delivery by the Successor Agency of the Funding Agreement.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ARTESIA REDEVELOPMENT AGENCY, HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. This Oversight Board hereby approves the execution and delivery by the Successor Agency of the Funding Agreement, substantially in the form attached hereto as Exhibit A.

Section 3. The members of this Oversight Board and the staff of the Successor Agency are hereby authorized, jointly and severally, to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution and the Funding Agreement.

PASSED AND ADOPTED this 4th day of June, 2013.

William A. Holt, Chair

ATTEST:

Gloria Considine, Secretary
OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY
TO THE ARTESIA REDEVELOPMENT AGENCY

EXHIBIT A

**PIONEER DOWNTOWN REVITALIZATION PROJECT BOND PROCEEDS FUNDING
AGREEMENT (in substantial final form)**

(see attached)

**PIONEER DOWNTOWN REVITALIZATION PROJECT
BOND PROCEEDS FUNDING AGREEMENT**

This PIONEER DOWNTOWN REVITALIZATION PROJECT BOND PROCEEDS FUNDING AGREEMENT (this "Agreement"), dated as of May 13, 2013, is entered into by and between the City of Artesia (the "City") and the Successor Agency to the Artesia Redevelopment Agency (the "Successor Agency," and together with the City, the "Parties").

RECITALS:

A. On December 20, 2007, the former Artesia Redevelopment Agency (the "Former Agency") issued its Artesia Redevelopment Project Area, 2007 Tax Allocation Bonds (the "2007 Bonds"), in the principal amount of \$12,920,000, pursuant to an Indenture, dated as of December 1, 2007 (the "Indenture"), by and between the Former Agency and Wells Fargo Bank, National Association, as trustee.

B. One of the purposes for which the 2007 Bonds were issued was to finance improvements to the City's downtown district. The principal project in the City's downtown district is the construction and installation of street improvements to the City's downtown arterial roadway, Pioneer Boulevard (the "Project").

C. Pursuant to AB X1 26 (which became effective at the end of June 2011), as modified by the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* (53 Cal.4th 231(2011)), the Former Agency was dissolved as of February 1, 2012, and the Successor Agency was constituted.

D. AB 1484, which became effective at the end of June 2012, amended and supplemented the provisions of AB X1 26. Together, AB X1 26 and AB 1484 are referred to herein as the "Dissolution Act."

E. Pursuant to Section 34175(b) of the California Health and Safety Code ("HSC"), all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former Agency, including the unspent proceeds of the 2007 Bonds (the "2007 Bond Proceeds"), transferred to the control of the Successor Agency by operation of law.

F. Pursuant to the Dissolution Act, the Successor Agency is not permitted to use the 2007 Bond Proceeds for the Project until certain conditions precedent have been satisfied, including the receipt by the Successor Agency of a finding of completion (the "Finding of Completion") issued by the California State Department of Finance (the "DOF") pursuant to HSC Section 34179.7.

G. By its letter, dated April 18, 2013, the DOF informed the Successor Agency that the DOF has issued a Finding of Completion to the Successor Agency.

H. Pursuant to HSC Sections 34191.1 and 34191.4(c), after the receipt of the Finding of Completion, the Successor Agency shall use the 2007 Bond Proceeds for the purposes for which the 2007 Bonds were sold, in a manner consistent with the original bond covenants.

I. The Successor Agency desires to proceed with the use of the 2007 Bond Proceeds for the purposes for which the 2007 Bonds were sold, including the completion of the Project.

J. Pursuant to 34177(l), the Successor Agency must prepare a Recognized Obligation Payment Schedule ("ROPS") for each six-month fiscal period ("ROPS Period"). The ROPS must be submitted to the Oversight Board of the Successor Agency and the DOF for approval.

K. Pursuant to HSC Section 34191.4(c)(2), the expenditure of 2007 Bond Proceeds for an obligation must be listed on a ROPS.

L. The Successor Agency previously submitted an Oversight Board approved ROPS 13-14A (*i.e.*, the ROPS covering the period from July 1, 2013 through December 31, 2013 (the "ROPS 13-14A Period") to the DOF.

M. By its letter dated May 17, 2013, the DOF approved the expenditure of a portion of the Bond Proceeds, in the amount of \$2,610,875, for the Project, covering Item No. 7 and Item No. 17 on the Successor Agency's ROPS 13-14A.

N. Because of the limited staffing of the Successor Agency and the City's traditional role and established procedures with respect to the awarding of public works contracts, the Successor Agency desires to enter into this Agreement with the City, for the City to perform or cause to be performed all work required to complete the Project, with payment therefor to be made from 2007 Bond Proceeds.

O. Because the Project had already commenced before the disruption caused by the dissolution of the Former Agency and 2007 Bond Proceeds could not be used for payments already incurred for the Project during the period from June 2011 through June 2013, the City has advanced City funds, in the amount of \$893,000.00 for the Project during this period (the "Prior City Advance").

P. This Agreement provides for the transfer of a portion of the 2007 Bond Proceeds to the City as reimbursement for the Prior City Advance and for the City to perform or cause to be performed all work required to complete the Project.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

Section 1. Subject to the provisions hereof and with the funding provided pursuant to this Agreement, the City agrees to perform or cause to be performed all work required for the completion of the Project, including but not limited to the design and the preparation of plans and specifications, and the construction of street curbs and gutters, roadway median, decorative paving, landscaping and other street amenities within the right of way of Pioneer Boulevard in the City's downtown district. The City shall install and construct, or cause to be installed and constructed, the improvements in accordance with such plans and specifications and all applicable federal, state and local laws, rules and regulations. Subject to the covenants set forth herein, the City shall have the sole discretion with respect to the planning, specification and the timing with respect to all components of the Project.

Section 2. Subject to the effectiveness of this Agreement (per Section 11 below), the Successor Agency shall make the following transfers to the City from 2007 Bond Proceeds (which total \$2,610,875), as soon as practicable at the commencement of the ROPS 13-14A Period:

- (a) \$893,000 as reimbursement for the Prior City Advance; and
- (b) \$1,717,875 for the City's use for expenditures incurred or to be incurred for the Project pursuant to this Agreement.

Section 3. (a) The Parties acknowledge and agree that the 2007 Bond Proceeds shall be the sole source of the Successor Agency's payment for the completion of the Project pursuant to this Agreement. The Parties also agree that the City's obligation with respect to the work for the Project under this Agreement shall be limited to the extent that funding therefor is available from the 2007 Bond Proceeds.

(b) At any time, if the City determines that the amount previously transferred by the Successor Agency pursuant to this Agreement is insufficient for the completion of the Project, the City's Finance Director shall notify the Successor Agency, specifying the estimated dollar amount necessary for the completion of the Project (the "Additional Funding Amount"). To the extent that sufficient unspent 2007 Bond Proceeds remain available, the Successor Agency shall list the Additional Funding Amount on the ROPS for the next available ROPS Period. Upon obtaining the Oversight Board's and the DOF's approval for such ROPS item, the Successor Agency shall transfer the Additional Funding Amount from 2007 Bond Proceeds to the City as soon as practicable upon the commencement of the applicable ROPS Period.

(c) Before the transfer of any Additional Funding Amount pursuant to Section 3(b) above, the City may, but is not obligated to, advance funds from sources available to City for the work necessary for the Project (each such advance being a "City Advance"). Any Additional Funding Amount transferred by the Successor Agency pursuant to Section 3(b) shall first be used to reimburse the City for outstanding City Advances, and then to pay for other expenditures of the Project.

Section 4. To the extent the City still holds unspent 2007 Bond Proceeds transferred pursuant to this Agreement after the completion of the Project (as determined by the legislative body of the City), the City shall return such unspent Bond Proceeds to the Successor Agency within a reasonable time after such determination.

Section 5. The City covenants that it shall use the 2007 Bond Proceeds in a manner consistent with the covenants in the Indenture, including, but not limited to, any covenants regarding the tax-exempt status of interest on the 2007 Bonds under the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

Section 6. Each Party shall maintain books and records regarding its duties pursuant to this Agreement. Such books and records shall be available for inspection by the officers and agents of the other Party at all reasonable times.

Section 7. The Parties agree to take all appropriate steps and execute any documents which may reasonably be necessary or convenient to implement the intent of this Agreement.

Section 8. This Agreement may be amended from time to time by written instrument executed by both Parties.

Section 9. No official, agent, or employee of the Successor Agency or the City, or members of the City Council, or members of the Successor Agency Board of Directors or Oversight Board shall be individually or personally liable for any payment hereunder in the event of any default or breach by the Successor Agency or the City, or for any amount which may otherwise become due to the City or Successor Agency, or successor thereto, or on any obligations under the terms of this Agreement.

Section 10. This Agreement is made in the State of California under the Constitution and laws of the State of California, and is to be so construed.

Section 11. This Agreement shall be effective upon the date it is approved or deemed approved by DOF pursuant to HSC Section 34179(h), following the prerequisite approval by the Oversight Board pursuant to HSC Sections 34178(a) and 34180(h).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

CITY OF ARTESIA

By 
Mayor

ATTEST:


City Clerk

**SUCCESSOR AGENCY TO THE ARTESIA
REDEVELOPMENT AGENCY**

By 
Executive Director

ATTEST:

Secretary

APPROVED:

**OVERSIGHT BOARD TO THE SUCCESSOR
AGENCY TO THE ARTESIA
REDEVELOPMENT AGENCY**

By: _____
Chair

Date